

1                   So in that context I was wondering whether  
2                   anybody at SFUSD asked, authorized, directed Mr.  
3                   Sanchez to ask for more time to prepare responses.

4                   MR. DUNCAN: Object, Your Honor to the  
5                   form of the question to where character relations and  
6                   the opinion --

7                   JUDGE SIPPEL: I'll sustain. Sustained,  
8                   sustained, sustained.

9                   MR. SHOOK: Are you aware of anyone at  
10                  SFUSD asking Mr. Sanchez to request more time?

11                  THE WITNESS: I have no memory of -- of  
12                  ask of -- anyone asking Mr. Sanchez to make that  
13                  request of the FCC.

14                  JUDGE SIPPEL: Let me ask something else.  
15                  Do you know, was the nature of the attorney-client  
16                  relationship with the Sanchez firm at that point in  
17                  time such that he had -- that he had authority to do  
18                  things like that as far as you, the client, were  
19                  concerned?

20                  THE WITNESS: Your Honor, as far as I  
21                  don't -- he was our legal expert. So I -- what's the  
22                  word I'm looking for? I -- deferred to him in legal

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1 matters obviously and so if he wanted -- if he decide  
2 -- suggested we get an extension -- if he made that  
3 suggestion to KALW or SFUSD then I guess chances are  
4 we would have gone with it given, we figure, Ernie's  
5 the expert.

6 JUDGE SIPPEL: All right but, but did he  
7 have -- again did you or -- between the time that Mr.  
8 Ramirez left and Ms. Sawaya came aboard you were --  
9 you were the acting or the -- you were the in-place  
10 Manager, no?

11 THE WITNESS: No, the time -- from Ramirez  
12 to Sawaya it's quite a bit of time. There's a couple  
13 of General Managers. There was a least one General  
14 Manager in between them.

15 JUDGE SIPPEL: Okay, all right, well  
16 correct me on that.

17 THE WITNESS: I'm sorry. I was -- when  
18 Mr. Johnson left in the end of September 2000 then --  
19 that's when I started standing in again until they  
20 picked the new General Manager which was Nicole Sawaya  
21 and she started on March 1 of 2001.

22 JUDGE SIPPEL: March of 2001. Well within

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1 that time frame -- let's say roughly a year, you were  
2 the stand-in General Manager isn't that correct?

3 THE WITNESS: For about five - about five  
4 months, yes.

5 JUDGE SIPPEL: Well in terms of your  
6 relationships and your contacts with the law firm, the  
7 Sanchez law firm did you ever give them blanket  
8 authority to seek extensions or to do pretty much what  
9 they wanted to do in terms of time frames?

10 Obviously using their best legal judgment,  
11 you know or was it still a situation where they would  
12 come as a general procedure would come to you for  
13 authorization to do things like that?

14 THE WITNESS: I don't recall them -- in  
15 that five-month period there I don't recall them ever  
16 coming to me for authorization.

17 JUDGE SIPPEL: All right. Mr. Shook.

18 MR. SHOOK: Mr. Helgeson in Mr. Sanchez's  
19 letter to Linda Blair which is EB Exhibit 16, one of  
20 the sentences reads as follows: SFUSD wishes to  
21 involve this new General Manager in all matters  
22 relating to KALW's 1997 Licensor Renewal including

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1 response to your Letter of Inquiry. Now in the  
2 context of this letter SFUSD wishes -- do you know who  
3 Mr. Sanchez is referring to when he's referring to  
4 SFUSD?

5 THE WITNESS: I wouldn't -- I would only  
6 surmise that he wasn't referring to a specific person  
7 there but SFUSD being the Licensee, the entity SFUSD.

8 BY MR SHOOK:

9 Q No person in particular is being referred  
10 to there?

11 A I don't see that from -- from my reading  
12 of it I don't -- I don't -- it doesn't appear to me to  
13 be that he's referring to a person.

14 Q Now in terms of SFUSD wishing to involve  
15 this new General Manager, the new General Manager is  
16 Nicole, right?

17 A That's right. This would be Nicole.

18 Q Did you agree with the letters inform here  
19 that Ms. Sawaya should be involved in all matters  
20 relating to the 1997 License Renewal?

21 MR. DUNCAN: Objection. Foundation, I  
22 think his testimony is that he doesn't recall seeing

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1 the letter.

2 MR. SHOOK: He doesn't recall seeing the  
3 letter but he was aware that the letter went. He was  
4 aware that there was a request for an extension of  
5 time been made.

6 JUDGE SIPPEL: Well I guess it doesn't hit  
7 the point but I want to allow the question.

8 THE WITNESS: At some point I was aware  
9 that Ernie had made -- Ernie Sanchez had made the  
10 request. The basis for his request that he -- that  
11 stated -- that's stated in here -- I don't -- I didn't  
12 -- I'm not aware of that -- I wasn't aware of that at  
13 the time that I knew he had gotten the extension or  
14 made the, excuse me, made the request for the  
15 extension.

16 MR. SHOOK: Now we're in the first week of  
17 March. This is Nicole's first week on the job. What,  
18 if anything, was she doing with respect to the public  
19 file at this point?

20 BY MR. SHOOK:

21 A I don't know specifically what she was  
22 doing regarding the public file other than as being a

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1 new General Manager bringing herself up to speed on  
2 all matters regarding this.

3 That -- so I don't know if other than  
4 bringing herself up to speed regarding it, I don't  
5 really know specifically what she was doing on it, or  
6 if she was doing -- or what that would -- would have  
7 been exactly.

8 Q Do you have any knowledge as to whether  
9 she was responding or attempting to respond in any way  
10 to the FCC's questions that appeared in the February  
11 5, 2001 letter?

12 A At some date, and I'm not sure the exact  
13 date, I know that she was working -- she was putting  
14 together some specific, some draft notes or some draft  
15 answers to those questions. I've seen -- in reviewing  
16 -- in preparing for this Hearing I certainly have --  
17 I've reviewed some notes or an e-mail, I believe from  
18 her to Ernie Sanchez.

19 Q Somewhat related to that I'd like to refer  
20 to your -- refer your attention to EB Exhibit 17.

21 A Okay.

22 Q In conjunction with EB Exhibit 17 I'd also

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1 like you to look at EB Exhibit 35, page 1. The  
2 3/6/2001 ETS reference where it states, "conference  
3 with Mr. Helgeson and Ms. Sawaya to work on responses  
4 to recent letter from FCC Mass Media Bureau; review  
5 request for Extension of Time to Commission," and  
6 that's noted as having taken a half hour total.

7 Now, in EB 17 when Mr. Sanchez is sending  
8 some kind of message be it an e-mail or otherwise to  
9 his partner, Susan Jenkins, and the first sentence  
10 reads Nicole and Bill called today to review their  
11 work on the FCC's questions. I take it the Bill in  
12 that e-mail is you?

13 A I would interpret it that -- that I'm the  
14 Bill, yes.

15 Q Nicole is Nicole Sawaya?

16 A Nicole would be Nicole Sawaya, yes.

17 Q The next sentence reads they will be  
18 sending draft answers by the end of the week. Draft  
19 answers to what?

20 A I would expect that he was referring to  
21 draft answers to the LOI from the FCC.

22 Q So you were going to be answering the

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1 questions to the LOI?

2 A He was expecting some draft answers from  
3 it, yes.

4 Q Then the final sentence reads they are  
5 pleased we are asking for the 30-day extension. So I  
6 take it from that you were aware on or about the date  
7 the extension was actually requested that you were not  
8 only aware of it you were pleased with that.

9 A According to Ernie we were pleased with it  
10 yes.

11 Q You have no reason to doubt Ernie's  
12 assessment of what you told him that you were pleased  
13 that the request was -- that the extension request was  
14 made?

15 A I expect because we certainly don't --  
16 didn't seem on March 6<sup>th</sup> to be -- to be ready to -- we  
17 hadn't completed whatever that needed to be completed  
18 on March 6<sup>th</sup> and we needed a 30-day extension  
19 apparently. So -- so I guess we were pleased, yes  
20 that we had more time.

21 Q Next I want to refer you to -- well,  
22 excuse me, before I do that -- in terms of this phone

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1 call that's referenced in EB 17 were you and Nicole on  
2 the phone together with Mr. Sanchez?

3 A I believe that generally when we had those  
4 conversations we did them from the speakerphone that  
5 was in her private office. So the three of us could -  
6 - could talk at that time.

7 Q Right. Now your office was in an open  
8 area, right?

9 A I was in an open area and that's one  
10 reason we wouldn't have done it from my area. Also I  
11 don't have a speakerphone in my phone so I'm sure we  
12 did it from -- if it was done it would have been done  
13 from Nicole's office.

14 Q Now, in terms of the e-mail reference that  
15 -- that talked about you and Nicole working on  
16 questions, were you and Ms. Sawaya working on  
17 questions together or were you working separately?

18 A At that time I don't recall working on  
19 questions and answers to questions. I recall that  
20 what I was doing was I was involving myself regarding  
21 the project making sure the public file was up to  
22 date. I wasn't working on drafting -- drafting

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1 answers to questions.

2 Q Okay, so perhaps Mr. Sanchez didn't get it  
3 quite right when he was telling his partner that "they  
4 will be sending draft answers by the end of the week."  
5 You weren't going to be sending draft answers?

6 A Well -- it -- he was going to be getting  
7 draft answers but I was not drafting draft answers, if  
8 that makes sense. But he was maybe assuming that  
9 maybe Nicole had taken on that part of -- of this --  
10 what work we needed to be done.

11 There wasn't any point in both of us  
12 drafting answers.

13 Q Now, on or about March 6<sup>th</sup>, which is the  
14 date of EB 17 and also the date noted on EB 35, page  
15 1 where we just talked about the conversation that you  
16 had. Were you personally looking at the public file  
17 at that point to see what was there?

18 A I was working regarding the public file  
19 and to make sure it was complete, and preparing  
20 documents around that time, although I don't recall  
21 specifically March 6<sup>th</sup>.

22 Q About -- was Ms. Sawaya also looking at

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1 the public file on or about March 6<sup>th</sup>?

2 A I'm not sure exactly what date she was  
3 looking at it. I showed her where the public file was  
4 and if she -- and I don't recall us specifically both  
5 looking at it at the very same moment.

6 Q Now at this point the public file is still  
7 located in your work area?

8 A In the same work area that I described  
9 before, yes.

10 Q When was the -- when was the cabinet or  
11 the public file itself actually moved to Ms. Sawaya's  
12 office?

13 A I can't remember the exact date but she  
14 decided it should -- from everything she knew -- she  
15 moved it -- we moved it into her office -- the  
16 contents into a file cabinet -- into a drawer of a  
17 file cabinet in her office and I want to say that was  
18 -- I can't recall a date but March or April.

19 Q But it took what, several weeks after her  
20 arrival before the public file contents were actually  
21 moved to her office?

22 A I don't know if it was several weeks

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1 after.

2 Q Several months?

3 A It could have been a week it could have  
4 been two. It was sometime in March. She started in  
5 March and sometime, I want to say within the first few  
6 weeks that -- that move of the -- the public file  
7 documents moved to -- into -- the file cabinet stayed,  
8 the four drawer file cabinet but contents moved into  
9 a drawer in her office.

10 Q Was anyone assisting you in looking at the  
11 public inspection file in March of 2001?

12 A There was a volunteer who helped me as far  
13 as making sure the file was complete and all the  
14 documents that should be there, we believe should have  
15 been there.

16 Q Who was this person?

17 A It was a woman named Dawn Nagengast.

18 Q Is she still associated with the station  
19 in any way?

20 A As far as I know she's not associated with  
21 the station currently.

22 Q Do you know her whereabouts?

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1           A       She lives in, I believe she's -- she was  
2       living in Fremont, California.

3           Q       All right well help me with my California  
4       geography because I don't know where Fremont is.

5           A       Okay. It -- it's a, I guess you would  
6       consider it a suburb of San Francisco, across the bay  
7       nearer to Oakland than San Francisco.

8           Q       Did you and Ms. Sawaya ever discuss in  
9       March of 2001 what one or both of you may have seen in  
10      the public file?

11          A       Well we did discuss the public file. We -  
12      - I told her what I was -- what I had been -- from  
13      conversations I'd had with our attorneys before she  
14      got there what I was -- what I was doing, my project  
15      about bringing the public -- making sure everything in  
16      the public file was complete right up to -- there we  
17      were in early 2001.

18                   That was -- that's the project that I was  
19      working on. I don't recall specifically other than  
20      that what the -- we said any about doing anything --  
21      what specific things other than the specific documents  
22      that we were comparing.

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1           Q     Did you ever tell her what you thought  
2 should be in the public file?

3           A     I probably would have -- what I believe I  
4 did was share with her the -- the e-mail or the fax  
5 that I'd gotten from Susan Jenkins in February stating  
6 what -- what should be in a public file because we  
7 were using that as our guide to make sure that our  
8 public file was current and up to date.

9           Q     Did she ever tell you what she thought  
10 should be there that wasn't there?

11          A     I don't recall her saying -- saying that  
12 to me what should be there other than -- other than  
13 agreeing with me if -- about the documents that we  
14 were preparing -- that I -- that -- from my inspection  
15 of the file.

16          Q     Do you know what Ms. Sawaya was doing to  
17 determine what SFUSD's responses to the FCC's  
18 questions should be?

19          A     I don't recall telling her that this is  
20 what the answer should be to any particular question.  
21 I was just -- I was again working on the -- on the  
22 task of -- I was tasked -- tasked to bring the file up

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1 to date and that's the part of the project that I was  
2 working on.

3 Q My question was a little bit different.  
4 Do you know what Ms. Sawaya was doing to determine  
5 what SFUSD's answers to the FCC's questions should be?

6 A I believe she was working on some draft  
7 answers to it and she would -- from that she would  
8 have to -- I would imagine she would have to do her  
9 own inspection of the file based on -- to come up with  
10 the answers to that.

11 Q Did she talk with you about what the  
12 situation was or should be in terms of the public  
13 file?

14 A I recall telling her what I was up to but  
15 as far as what should be I would guess -- would have  
16 just referred either to -- to the letter from -- the  
17 fax from Susan Jenkins and that's all -- that's how I  
18 would have.

19 Q So are you telling us that you gave Ms.  
20 Sawaya EB Exhibit 15?

21 A EB Exhibit -- one moment.

22 MR. DUNCAN: Let me get reorganized here.

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1 THE WITNESS: Okay. I would have shared this  
2 as a basis for what I was doing regarding the public  
3 file in preparing documents.

4 MR. SHOOK: You didn't give it to her as a guide  
5 to help her respond to the FCC's questions?

6 BY MR. SHOOK:

7 A I don't recall if I gave her this or I  
8 made a copy of it for her or I just had it in a place  
9 where she had -- she could.

10 Q I want to direct your attention to EB  
11 Exhibit 18.

12 A Okay.

13 Q Now we've talked a little bit about this  
14 Exhibit already. This was an e-mail that you had  
15 received from Mr. Sanchez?

16 A Yes, this is what it appears to be.

17 Q Why I mean do you remember receiving it?

18 A I remember receiving this, yes.

19 Q Did you read the rule that accompanied the  
20 e-mail -- or the part of the e-mail?

21 A I reviewed it at the time I received it,  
22 yes.

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1 Q Did you use the rule there as a guide for  
2 determining what should be in the public file?

3 A I don't -- I do not recall if we were  
4 using this or the -- what I got from Susan Jenkins in  
5 -- she had sent me one on February 17<sup>th</sup> and then I got  
6 -- we got this on, looks like March 7<sup>th</sup>, and I don't  
7 recall if we saw any specific difference between this  
8 and the other one. That's what I don't remember at  
9 this time.

10 Q Now I want to refer you again to Ms.  
11 Sawaya's calendar which is SFUSD Exhibit 16, this time  
12 page 2 again. The date that I want you to look at is  
13 March 6<sup>th</sup>. Your Honor, I'm referring to SFUSD Exhibit  
14 16 not Bureau Exhibit 16. This is -- an attempt to  
15 confuse everybody.

16 A Okay.

17 Q First of all to help you out here, what  
18 you're looking at is Ms. Sawaya's calendar from March  
19 2001. For March 6<sup>th</sup>, which is a date we have been  
20 talking about, there's a reference there it says "9:00  
21 a.m. Bill." Do you know what that's all about?

22 A I don't recall that specific or I can say

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1 it probably was me.

2 Q Well I mean in --

3 A I don't recall --

4 Q Response to my question if you don't know  
5 a simple no will suffice.

6 A Okay, okay. No I don't know specifically  
7 regarding 9:00 a.m. on that date.

8 Q Then it appears that toward the bottom of  
9 that date it looks like the word staff and then it has  
10 6:00 to 7:30. Was there a staff meeting that day?

11 A I don't have a calendar similar to this  
12 for -- that I -- that I can't recall if there was a  
13 staff meeting on that day or not.

14 Q Well for a staff meeting to have occurred  
15 at 6:00 o'clock is that something that you ordinarily  
16 would have attended or you would have left for the day  
17 and wouldn't be a part of it?

18 A Could go either way depending -- I  
19 generally -- I probably would have been there.

20 Q Do you have any recollection of a second  
21 staff meeting convened by Ms. Sawaya occurring so  
22 early in her tenure? We had one on March 2<sup>nd</sup>, her

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1 second day on the job and now this is her fourth day  
2 on the job, March 6<sup>th</sup> and we're having another staff  
3 meeting.

4 A Yes. That I couldn't say other than  
5 perhaps what I would surmise from having a staff  
6 meeting at 6:00 would be so the people who weren't  
7 able to attend the previous one -- it was at a time  
8 when people could attend a staff meeting.

9 Q Do you have a recollection of Jason Lopez  
10 attending this meeting?

11 A I don't have a recollection of Jason  
12 attending.

13 Q Well first of all I should have asked; do  
14 you have a recollection of yourself actually attending  
15 this meeting?

16 A I don't have a recollection -- any  
17 specific recollection of -- of my attending that  
18 meeting and if I did what specifically was said.

19 Q Going back to what we were talking about  
20 a little while ago --

21 A Can I say one -- I'm sorry.

22 Q Is there something you want to add feel

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1 free.

2 A Yes, I just wanted to conjecture if this  
3 very well given was on a Friday at 6:00 it very well  
4 could have been the Welcome Nicole Reception that I  
5 had spoken of.

6 Q Okay --

7 A That doesn't necessarily say --

8 Q Excuse me Mr. Helgeson, just to help you  
9 March 6<sup>th</sup> was a Tuesday.

10 A It is -- okay. Well that -- thank you  
11 very much. Okay. Thank you. Okay. I was looking --  
12 looked on the end of the week here and thought that's  
13 why it looked like perhaps a Friday but thank you, I  
14 stand corrected.

15 Q That's the problem we have trying to  
16 compress a very large document into four 8 1/2 x 11  
17 pages.

18 A Thank you.

19 Q Anyway we were talking before about the  
20 looking in the public file that you and Ms. Sawaya  
21 were doing at about this time in early March of 2001.  
22 What I didn't ask you was; did she assign anyone, so

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1 far as you know, to assist her in determining what was  
2 in the public file in order to answer the FCC's  
3 questions?

4 A I don't recall her using anyone else in  
5 the office to assist her on that project -- make --  
6 regarding that, no.

7 Q Did Ms. Sawaya talk to you about what she  
8 saw in the public file in connections with the FCC's  
9 questions?

10 A I don't recall specifically what we --  
11 what we talked about -- what she talked about or I  
12 talked, whether it was about what she saw or didn't  
13 see. She was aware of the documents that -- that I  
14 was -- I was preparing. That's -- what else she saw  
15 I don't know.

16 Q What generally did you talk about then?

17 A I told her about what project -- what --  
18 at some point I was informing her of the progress  
19 regarding bringing the file up to date and making sure  
20 it was complete, specifically regarding issues and  
21 programs list and also, owner -- supplemental  
22 ownership reports.

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1                   Using the checklist that we had gotten  
2                   from our attorneys to -- to use that as our -- as our  
3                   guide to make sure everything was again complete and  
4                   up to date.

5                   Q           In this first week of March of 2001 did  
6                   she tell you what she -- she thought should be in the  
7                   public file that wasn't there?

8                   A           I don't recall her telling me that at that  
9                   time, no.

10                  Q           Anytime?

11                  A           I don't recall at some point during that  
12                  period her telling me, no.

13                  Q           In connection with responding to the FCC's  
14                  questions in the February 5, 2001 letter did she  
15                  direct you to put anything into the public file?

16                  A           I don't recall her directing me to put  
17                  things in there although we -- she knew that out of  
18                  our conversations with the attorneys what I was doing  
19                  regarding the public file and preparing documents.

20                               I don't know if there were other documents  
21                               other than what she told me to put -- something in  
22                               other than what she knew I was working on.

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1           Q       Now, in connection with your Exhibit 18  
2       which is the e-mail that Mr. Sanchez sent you on March  
3       7    and   which   included   the   current   version   of  
4       47CFR73.3527 which is the public file rule.

5                   The e-mail is addressed to you and to you  
6       alone. Now do you have any understanding as to why it  
7       is you're the only recipient of this e-mail as opposed  
8       to Mr. Sanchez communicating directly with Nicole  
9       Sawaya?

10          A       My recollection at the time was that since  
11       she was a new employee -- SFUSD employees get their  
12       own e-mail on the -- on the SFUSD e-mail system.

13                   As a new employee she hadn't, I believe  
14       had an e-mail assigned to her yet and so if Ernie  
15       wanted to get something to have her see it -- at that  
16       point I think he needed to send it to me and I would  
17       give it to her for that reason until she got her own  
18       e-mail account.

19          Q       I want to refer your attention now to EB  
20       Exhibit 19.

21                   MR. DUNCAN: I'm sorry Mr. Shook what was  
22       the Exhibit number on that Ernie -- on the Sanchez?

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1 MR. SHOOK: The one that we were talking  
2 about before was EB 18, now we're up to EB 19.

3 THE WITNESS: Okay.

4 BY MR. SHOOK:

5 Q You sent EB 19 to Mr. Sanchez?

6 A Yes I did.

7 Q Where it says, Ernie thanks I'll share it  
8 with Nicole, I take it you then shared whatever the e-  
9 mail references there with Nicole?

10 A Yes I -- I believe I would have done that,  
11 yes.

12 Q I now want to direct your attention to EB  
13 Exhibit 20.

14 A Okay.

15 Q Did you become aware of EB Exhibit 20 on  
16 or about March 8, 2001?

17 A I'm sorry, was I aware of this piece of  
18 paper?

19 Q Or the information that was written  
20 therein?

21 MR. DUNCAN: Objection, compound -- I just  
22 want to make sure that we understand what -- the

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1       Witness understands exactly what the question is.

2               JUDGE SIPPEL: Sustained. Just rephrase  
3       it please Mr. Shook.

4               MR. SHOOK: Okay the first question is,  
5       were you aware of EB Exhibit 20 on or about March 8,  
6       2001?

7               THE WITNESS: I don't -- I don't think  
8       I've seen this. I don't recall seeing this. Did I  
9       see this Ernie? This is -- this is the letter from -  
10      - this is a memo from March 8<sup>th</sup> to Ernie from Nicole,  
11      RE Enclosures. Am I -- am I right?

12              MR. SHOOK: That's what it says.

13              THE WITNESS: That's what it says.

14              JUDGE SIPPEL: Do you want more time to  
15      read that?

16              THE WITNESS: I'm trying to refresh my  
17      memory on it.

18              JUDGE SIPPEL: Can we turn the record off  
19      there while we do this?

20              THE WITNESS: Okay, I'm sorry.

21              JUDGE SIPPEL: No, don't apologize. It's  
22      okay.

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